

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Mark Sievers, Chairman
 Ward Loyd
 Thomas E. Wright

In the Matter of the Application of Howison)
Heights, Inc., for Approval of Certain) Docket No. 12-HHIW-382-RTS
Changes in its Charges for Water Service.)

**ORDER GRANTING JOINT MOTIONS AND AUTHORIZING RATE CASE FILING
TO PROCEED UNDER K.A.R. 82-1-231B**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and records and being fully advised in the premises, the Commission finds and concludes as follows:

1. On November 22, 2011, Tim Howison, d/b/a Howison Heights Inc., (Howison), filed an Application with the Commission seeking approval to make certain changes in its rates for water service. Howison stated that it is a corporation duly incorporated under the laws of the State of Kansas, and has its principal place of business at 1212 Meyer Drive, Salina, Kansas 67401. Application, November 22, 2011, paragraph 1 (Application, ¶ 1). Howison stated that it holds necessary certificates of convenience and authority for the operation of a water utility business and currently serves 62 retail customers in Saline County, Kansas. Application, ¶ 2. Howison requested an increase in revenue requirement of \$41,652 in annual revenues, or a 101% increase based upon operations for 12 months ending December 31, 2010. Application, ¶ 5.

2. The Commission has granted intervention to the Citizens' Utility Ratepayer Board (CURB) in this docket. Order Designating Prehearing Officer and Granting Intervention to the Citizens' Utility Ratepayer Board, January 4, 2012.

I. Joint Motion to Proceed under K.A.R. 82-1-231b, Requesting Waiver of Procedural Regulations, and for Procedural Schedule

3. Commission Staff and CURB (Joint Movants) requested the Commission: (1) allow this docket to proceed under K.A.R. 82-1-231b; (2) waive the requirement of K.A.R. 82-1-231b(b)(2)(C) regarding a public meeting; and (3) adopt the proposed procedural schedule. Joint Motion to Proceed Under K.A.R. 82-1-231b, Requestion [sic] a Waiver of Commission Procedural Regulations, and for a Procedural Schedule, January 10, 2012 (Joint Motion 1). Joint Movants stated K.A.R. 82-1-231b allows small companies, such as Howison, to proceed with a less extensive and lengthy rate proceeding, and that Howison has completed most of the prerequisites required by the regulation. Joint Motion 1, ¶¶ 4, 6.

4. In particular, Joint Movants stated that K.A.R. 82-1-231b(b)(2)(C) provides that before an Application can be considered, Applicant must give notice and hold a public meeting to inform customers of intent to file an Application and to allow customers to comment. Joint Motion 1, ¶ 7. Staff noted that it has worked with Howison to prepare notice for a public meeting, held on January 13, 2012. Joint Movants stated that Howison has worked with Staff to prepare the Application and provide necessary schedules and documents prior to filing, and that given the small size of the company, the number of customers and amount of annual rate increase requested, good cause is shown for the Commission to grant waiver of K.A.R. 82-1-231b(b)(2)(C) and for the matter to proceed under K.A.R. 82-1-231b. Joint Motion 1, ¶ 8.

5. Joint Movants also proposed the following procedural schedule for this docket:

<u>Date</u>	<u>Action</u>
February 10, 2012	Staff's Report and Recommendation, and CURB Recommendations
February 15, 2012	Interim Order
May 20, 2012	Final Order

II. Joint Motion to Waive K.A.R. 82-1-231b(b)(2)(A)

6. Joint Movants also requested the Commission grant a waiver of K.A.R. 82-1-231b(b)(2)(A), which requires written notice of the intent to file an Application not less than 30 and not more than 90 days before the application filing date. Joint Motion for Waiver of Procedural Regulation, January 13, 2012 (Joint Motion 2). Joint Movants stated that Howison initially filed for a rate increase in Docket No. 11-HHIW-742-RTS, and withdrew the Application on July 5, 2011, but continued to work with Staff to ensure a complete application was filed. Joint Motion 2, ¶ 2. Howison submitted a packet of schedules and other information, including a draft of the current Application, on October 26, 2011. Joint Motion 2, ¶ 3.

7. Staff stated that it has not identified a specific written communication giving notice of intent to file an Application in this docket, but Joint Movants stated the intent of the procedural requirement has been met due to Howison's attempts to work with Staff to put together an acceptable application. Joint Motion 2, ¶¶ 4-5. Joint Movants stated that good cause has been shown for the waiver of K.A.R. 82-1-231b(b)(2)(A). Joint Motion 2, ¶ 6.

III. Findings and Conclusions

8. The Commission finds Joint Movants' arguments to be reasonable and persuasive, and therefore concludes that this Application should proceed under the requirements of K.A.R. 82-1-231b. A water public utility is classified as a Class B utility, and allowed to proceed under K.A.R. 82-1-231b, if its annual operating revenues are less than \$750,000. K.A.R. 82-1-204a(b)(2). Howison is a small utility serving 62 retail customers, and states its 2010 revenues totaled \$38,463. Application, November 22, 2011, Exhibit 2 ¶ 2, and Exhibit VI.

9. The Commission finds that good cause has been shown, in accordance with K.A.R. 82-1-231b(f) for the Commission to waive the requirements under K.A.R. 82-1-

231b(b)(2)(A) (written notice of intent to file) and K.A.R. 82-1-231b(b)(2)(C) (public meeting held before Application filed), and thus waives those requirements for good cause shown. The Joint Motions are reasonable, in the public interest, and should be granted.

10. The Commission also approves of the procedural schedule as proposed by the parties and set forth above in paragraph 5.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Commission grants the Joint Motion to proceed under K.A.R. 82-1-231b, request for a waiver of Commission procedural regulations, and for a procedural schedule. The Commission concludes that this Application should proceed under K.A.R. 82-1-231b, and waives the requirement of K.A.R. 82-1-231b(b)(2)(C) for good cause shown and in accordance with K.A.R. 82-1-231b(f). The Commission approves of the procedural schedule set forth by the Joint Movants, as set forth above.

B. The Commission grants the Joint Motion to waive K.A.R. 82-1-231b(b)(2)(A) for good cause shown and in accordance with K.A.R. 82-1-231b(f).

C. Parties have 15 days, plus three days if service of this Order is by mail, from the date of service of this Order in which to petition the Commission for reconsideration. K.S.A. 66-118b; K.S.A. 2010 Supp. 77-529(a)(1).

D. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further order, or orders, as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Dated: JAN 18 2012

ORDER MAILED JAN 19 2012

Patrice Petersen-Klein
Executive Director

mrd

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
NIKI CHRISTOPHER, ATTORNEY CITIZENS' UTILITY RATEPAYER BOARD 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		
C. STEVEN RARRICK, ATTORNEY CITIZENS' UTILITY RATEPAYER BOARD 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		
DELLA SMITH CITIZENS' UTILITY RATEPAYER BOARD 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		
SHONDA SMITH CITIZENS' UTILITY RATEPAYER BOARD 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		
DAVID SPRINGE, CONSUMER COUNSEL CITIZENS' UTILITY RATEPAYER BOARD 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		
TIMOTHY B. HOWISON, PRESIDENT HOWISON HEIGHTS, INC. 1212 MEYER DR SALINA, KS 67401-5274		
Holly Fisher, ATTORNEY KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604-4027 ***Hand Delivered***		
MATTHEW SPURGIN, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604-4027 ***Hand Delivered***		

ORDER MAILED JAN 19 2012

The Docket Room hereby certified that on this _____ day of _____, 20____, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.